

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ROBERT L. MAYFIELD,

Defendant.

4:16-CR-3077

MEMORANDUM AND ORDER

This matter is before the Court on correspondence from the defendant that the Court has filed as a motion for copies. [Filing 116](#). The defendant's motion will be denied.

The defendant is requesting copies of his trial transcripts and judgment of commitment. But the defendant does not have the right to receive copies of documents without payment, even if he is indigent. *See*, [28 U.S.C. § 1915](#); [Lewis v. Precision Optics, Inc.](#), 612 F.2d 1074, 1075 (8th Cir. 1980). The defendant may pay the Clerk of the Court for copies at the established rate of 50¢ per page, because transcripts of the trial have already been prepared at the request of defendant's counsel. The defendant's judgment of conviction and transcripts of his trial total 521 pages, so they would cost \$260.50.

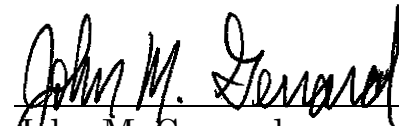
Furthermore, however, the defendant's request for copies is premature. The defendant is asking for copies, he says, because he is preparing a motion pursuant to 28 U.S.C. § 2255. [Filing 116](#). But as of now, the defendant's case is on appeal to the U.S. Court of Appeals for the Eighth Circuit, and the defendant's counsel is still representing him before that court. The defendant cannot pursue postconviction relief while his direct appeal is still pending.

See *United States v. Jagim*, 978 F.2d 1032, 1042 (8th Cir. 1992); *Masters v. Eide*, 353 F.2d 517, 518 (8th Cir. 1965).

Accordingly, IT IS ORDERED that the defendant's motion for copies ([filing 116](#)) is denied.

Dated this 21st day of November, 2017.

BY THE COURT:



John M. Gerrard
United States District Judge